

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

September 22, 2005

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 22, 2005, at 1:40 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing, Vice-Chair; John W. McKay Jr. (Out @ 2:36); Bill Johnson (In @ 1:53); Bob Aldrich (Out @ 3:26); Elizabeth Bishop; M.S. Mitchell; Don Anderson; Denise Sherman; Bud Hentzen; Ronald Marnell and Hoyt Hillman. Morris K. Dunlap was not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; David Barber, Advanced Plans Manager and Rose Simmering, Recording Secretary.

❖ PLANNING COMMISSION ITEMS

1. Election of Metropolitan Area Planning Commission Chair and Vice-Chair.

MOTION: To nominate Commissioner Harold Warner, Jr. Chair.

HENTZEN moved, **ALDRICH** seconded the motion.

WARNER Are there any other nominations? If not nominations cease.

MOTION: To cast a unanimous ballot for Commissioner Harold Warner, Jr.

BISHOP moved, **DOWNING** seconded the motion, and it carried (11-0).

Election of MAPC Vice Chair

MOTION 1: To nominate Commissioner Elizabeth Bishop for Vice-Chair.

SHERMAN moved, **HILLMAN** seconded the motion.

MOTION 2: To nominate Commissioner Darrell Downing for Vice-Chair.

MITCHELL moved, **MCKAY** seconded the motion.

WARNER Are there any other nominations? Nominations will cease.

Vote on first motion fails. Vote 4-7. (MARNELL, WARNER, ANDERSON, HENTZEN, ALDRICH, MITCHELL, MCKAY, opposed)

Vote on second motion carried. Vote 7-4. (SHERMAN, HILLMAN, BISHOP, DOWNING)

2. Approval of August 25, 2005 meeting minutes.

MOTION: To approve the August 25, 2005 meeting minutes.

MARNELL moved, **DOWNING** seconded the motion, and it carried (11-0).

❖ SUBDIVISION ITEMS

Items 3-1 to Items 3-6 may be taken in one motion unless there are questions or comments.

3. Consideration of Subdivision Committee recommendations from the meeting of September 1, 2005.

3-1. SUB 2005-85: One-Step Final Plat -- AUBURN HILLS COMMERCIAL FOURTH ADDITION, located east of 135th Street East and on the south side of Maple.

NOTE: This is a replat of Auburn Hills Commercial 3rd Addition to relocate the Reserve from the north to the south portion of the property. A zone change request (ZON 2005-84) has been requested from SF-5, Single-Family Residential to NR, Neighborhood Retail. The site is subject to a Protective Overlay #130, which addresses setbacks, signs, access, lighting, landscaping, uses, and architectural controls.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. Municipal services are available to serve the site. City of Wichita Water and Sewer Department advises that the applicant will need to pay fees in lieu of assessment for water main and sewer main or submit an application to the Director of Water and Sewer Department for a waiver of the fees.
- C. Debt Management has requested the submission of a respread agreement for special assessments due to the lot reconfiguration.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. Revisions to the drainage plan are needed. A drainage guarantee is required.
- E. Traffic Engineering needs to comment on the access controls. The plat proposes one joint access opening along the west portion of the plat in accordance with Auburn Hills Commercial 3rd Addition as recorded in 2004. The access controls are approved.
- F. A Protective-Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved P-O and its special conditions for development on this property.
- G. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The label at the northeast corner of plat of "NE. Cor., Auburn Hills Commercial Addition" needs changed to "NW. Cor., Auburn Hills 3rd Addition".
- L. The label at the southwest corner of plat of "SE. Cor., Res. C, Auburn Hills Commercial Addition" needs changed to "SE. Cor., Res. A, Auburn Hills Commercial Addition"
- M. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility

easements to be platted on this property.

- V. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations

ALDRICH moved, **SHERMAN** seconded the motion, and it carried (10-0-1). **MCKAY** abstains due to a conflict of interest.

3-2. SUB 2005-51: Revised One-Step Final Plat -- BLUE SKY ADDITION, located north of Maple and west of West Street.

NOTE: This is a replat of a portion of the Parkwilde Addition.

STAFF COMMENTS:

- A. Sanitary sewer services are available to serve the site. The applicant shall guarantee the extension of City water. **The width of the utility easement needs to include the sewer line at least 5-ft from the edge of the easement.**
- B. **City Engineering** needs to comment on the status of the applicant's drainage plan. **Minimum pad elevations are needed.**
- C. The Applicant shall guarantee the paving of the proposed streets.
- D. The Applicant has platted a 20-ft building setback along Nevada, which represents an adjustment of the Zoning Code standard of 25 feet for the SF-5, Single-Family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- E. **County Surveying** advises that several dimensions on plat need to be clarified.
- F. An object on Lot 2 Block A encroaches within Reserve A.
- G. Reserve A needs to be referenced in plat's text. The final plat tracing shall state in the plat's text the purposes of the proposed reserves as well as the ownership and maintenance responsibilities.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The vicinity map indicates two sites.
- K. **County Surveying** advises that in the legal Description "LOTS 8 AND 9, 270.47 FEET" needs changed to "LOTS 8 AND 10, 270.47 FEET".
- L. **County Surveying** advises that in the legal description "N1°06'16"W, 165.51 FEET" needs changed to "N1°06'16"W, 216.51 FEET".
- M. **County Surveying** advises that in the legal description "181.19 FEET" needs changed to "181.78 FEET".
- N. **County Surveying** advises that on the North line of Lot 1, Block A the distance of "131.19 feet" needs changed to "131.14 feet".
- O. **County Surveying** advises that on the North line of Nevada Circle the distance of "51.29 feet" needs changed to "50.64 feet".
- P. **County Surveying** advises that a bearing of "S89°57'05"W" needs added with the 20' to the center of the Cul-de-sac"
- Q. **County Surveying** advises that a distance is needed for the 15' Utility Easement which extends North of the South line of Lot 1, Block A.
- R. **County Surveying** advises that a distance is needed from the Southwest corner of Lot 1, Block A to the Southeast corner of the Easement on Film 703, Page 590 on said Lot 1.
- S. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 1-3, Block B. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **A modification is approved.**

- T. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- U. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- BB. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- CC. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations

MCKAY moved, **BISHOP** seconded the motion, and it carried (11-0).

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- 3-3. SUB 2003-82: One-Step Final Plat -- STONEBRIDGE ADDITION**, located west of 159th Street East and on the north side of 13th Street North.

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. A zone change (ZON 2003-41) from SF-20, Single-Family Residential to SF-5, Single-Family Residential has been approved subject to platting. This plat is classified as an urban subdivision.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer (mains and lateral) and City water (mains and lateral) to serve the lots being platted. **An outside-the-city water agreement shall be provided. Off-site sewer easements will also be needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The final drainage plan is needed.**
- D. The Applicant needs to meet with **Sedgwick County Surveyor** to discuss railroad right-of-way, and the adjoining strip to the north, which is included in the legal description of the plat.
- E. **County Engineering** has requested complete access control along 13th St. North.
- F. The Applicant shall guarantee the paving of the proposed streets to the urban street standard. The guarantee shall also provide for sidewalks on at least one side of the loop street Graystone/Terhune/Summerfield.
- G. In the title block the word "Wichita" needs removed.

- H. **City Engineering** has requested the paving of 13th St to Sagebrush.
- I. The platlor's text should include language that protects the public from cost of reconstructing improvements in Reserves A and C.
- J. A means of access needs to be provided from this Addition into the railroad right-of-way along the plat's north line. It is anticipated that this right-of-way will be converted into a recreation corridor. **A contingent pedestrian easement shall be platted. The easement shall become effective upon public access being obtained from the railroad right-of-way.**
- The pedestrian easement between Lots 15 & 16, Block B needs to extend to the north line of plat.
- K. **County Fire Department/County Engineering** needs to comment on the emergency access easement located within Reserve G which provides connection to the Savanna at Castle Rock Ranch 7th Addition to the west. **County Engineering and County Fire Department** have recommended the deletion of Reserve G and extension of public right of way to the west line of the plat.
- The Subdivision Committee has approved the deletion of Reserve G and required an extension of public right of way to the west line of the plat.**
- L. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (Steve Penaluna at 316-322-8247) to have a wetland determination completed.
- M. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- The restrictive covenant associated with Reserve G will need to be signed by Savannah Home Owner's Association in accordance with the platlor's text.
- N. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- O. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- P. **GIS** needs to comment on the plat's street names. **Graystone shall be labeled for the segment adjoining Lots 20-22, Block F.**
- Q. Since Reserve F includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
- R. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita

Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Z. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- AA. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

NEIL STRAHL At the Subdivision meeting the applicant proposed an emergency access easement located within Reserve G. Please note Condition K of the staff report.

- K. County Fire Department/County Engineering needs to comment on the emergency access easement located within Reserve G which provides connection to the Savanna at Castle Rock Ranch 7th Addition to the west. County Engineering and County Fire Department have recommended the deletion of Reserve G and extension of public right of way to the west line of the plat.

The Subdivision Committee has approved the deletion of Reserve G and required an extension of public right of way to the west line of the plat.

At the Subdivision meeting the developer of the Savanna Addition to the west, objected to the street connection through the development. The Subdivision Committee approved the plat requiring an extension, at that point, of a public right-of-way to connect with Sundance in the Savanna Addition noted in the above condition of the staff report.

Subsequent to the Subdivision meeting, the applicant informed staff of their desire to appeal the Subdivision Committee's decision. They are requesting the plat be approved as they submitted it with the emergency access easement extending to Savanna along with a gate. We have received letters opposing the street connection from the residents from Savanna Addition that were included in your packet.

County Engineering and County Fire both have informed me that the emergency access easement with a gate would be acceptable. County Engineering and the developer of Stonebridge have agreed on the construction of a surface for that emergency access easement that is called grass pave.

PHIL MEYER, Baughman Company The applicant has been working with the Savanna Homeowners Association and the County Departments. I think staff has dropped their opposition to the emergency access easement, and the right-of-way connection, and they are supporting the plat the way it was originally filed.

BISHOP Is there any similar provision to the east or is there no reason that development is expected in that area?

MEYER We have supplied a street stub to the east, and it is in place. The difference in the two neighborhoods and the urban standard we are building versus the suburban standard of Savanna Addition is why we are trying to do this emergency access easement.

JOHNSON In at 1:53 p.m.

BISHOP I have a question for Mr. Jim Weber. We are here to consider the Stonebridge Addition. My question is about the Savanna Addition. There are hardly any sidewalks and how did that happen? To have collector streets without sidewalks ... how did that happen?

JIM WEBER COUNTY PUBLIC WORKS Savanna Addition started out as a rural subdivision development where every street was to be open ditch. So Sundance went in with open ditches and that is the one that we are now looking at, and as they started looking at their development plan and seeing the growth of the city coming out they would start doing denser lots.

MOTION: To approve subject to staff recommendations, with the exception to eliminate Item K of the staff report dealing with the emergency access.

ALDRICH moved, **HILLMAN** seconded the motion, and it carried (12-0).

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- 3-4. **SUB 2005-73: One-Step Final Plat -- YODER AIRPORT SOUTH ADDITION**, located east of 135th Street West and on the south side of 63rd Street South.

NOTE: This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a Conditional Use (CON 2005-05) for an airstrip.

This final plat has reduced the number of lots from four to three.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. **County Code Enforcement advises that the lagoon serving the existing structure needs to be shut down. The applicant shall meet with County Code Enforcement to discuss the replacement of the lagoon with an alternative system.**
- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection. **The applicant proposes to connect to rural water system.**
- C. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan.
- F. **County Engineering** needs to comment on the access controls. The plat denotes two openings along 63rd St. South. **County Engineering has approved two openings.**
- G. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. **County Engineering** needs to comment on the 30-ft contingent street dedication proposed along 63rd South. A dedication of street right-of-way is needed to conform with the 60-ft half-street right-of-way required by the Access Management Regulations for rural arterials. **A 60-ft dedication is needed. The portion occupied by the hangar may be platted with a contingent dedication.**
- The street dedication and contingent dedication have been platted as requested.
- I. A covenant shall be submitted for the private drive located within Reserve B, which sets forth ownership and maintenance responsibilities. The plat's text shall reference the platting of the reserve for private drive purposes and shall state which specific lots are to be accessed by the reserve.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and

the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations

MCKAY moved, **BISHOP** seconded the motion, and it carried (11-0).

3-5. SUB 2005-89: One-Step Final Plat – MT. CARMEL RIVER ADDITION, located west of Meridian and south of 21st Street North.

NOTE: This replat is a consolidation of Lot 8, Indian Hills 3rd Addition and Lot 6, Snodgrass 3rd Addition.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. City Water and Sewer Department requests that the 8-ft utility easement be increased to 10 feet.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed. The Reserve shall be platted in alignment with the Reserves platted to the east and west.**
- D. The adjoining street right-of-way widths need to be denoted.
- E. The owner's certificate in the plat's text needs to reference "a Lot, Block and Reserve".
- F. The final plat tracing shall state in the plat's text the purposes of the proposed reserves as well as the ownership and maintenance responsibilities.
- G. Provisions shall be made for ownership and maintenance of the proposed reserve. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- H. The Reserve needs to be labeled as Reserve A.
- I. The corrected name of the Addition should be referenced in the owner's certificate.
- J. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. A lot number and block number should be denoted on the face of the plat.
- M. The Applicant has platted a 20-ft building setback, which represents an adjustment of the Zoning Code standard of 25 feet for the SF-5, Single-Family Residential District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- O. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

WARNER I understand that the applicant wants to defer two weeks and one Planning Commissioner is wanting it to be deferred for longer than two weeks.

ALDRICH I would like this deferred four weeks so the Park Board can review this application, because the bed in the banks of the river have been dedicated according to city ordinance to the Park Board.

MOTION: To defer for four weeks.

ALDRICH moved, **BISHOP** seconded the motion, and it carried (12-0).

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- 3-6. **SUB 2005-90: One-Step Final Plat – THE EXECUTIVE ADDITION AT WHITE TAIL SECOND ADDITION**, located south of 13th Street and west of 127th Street East.

NOTE: This is a replat of Executive at White Tail Addition.

- A. Petitions have been provided with Executive at White Tail Addition for sewer, water, drainage and decel lane improvements. City water services are available. Drainage improvements have been constructed. **New petitions are needed for sewer extension and abandonment, and decel lane improvements. Additional easement is needed to extend sewer to Lots 1 and 5.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **Traffic Engineering** needs to comment on the access controls. The plat proposes one access opening along 13th St. North. Complete access control is required along K-96. **Access controls are approved.**
- D. **City Engineering** needs to comment on the status of the applicant's drainage concept. **City Engineering has approved the drainage plan. County Engineering has requested a drainage plan.**
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.

- F. The Applicant has denoted on the preliminary plat 0-ft building setbacks, which represents an adjustment of the Zoning Code standard of 20 feet for the LC, Limited Commercial District. A note shall also be included on the final plat referencing the setbacks. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- G. A cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **BISHOP** seconded the motion, and it carried (11-0).

❖ **SUBDIVISION ITEMS**

4. Consideration of Subdivision Committee recommendations

4-1. SUB 2005-97: One-Step Final Plat -- T & L JOHNSON ADDITION, located north of Kellogg and west side of Hillside.

NOTE: This is a replat of Lots 39 and 41, Block 4, in the Harris & Hoffeld's Subdivision. The site has been approved for a zone change (ZON 2005-22) from TF-3, Two-Family Residential to GO, General Office.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. City Water and Sewer Department advises the applicant to contact the City regarding changing the account from residential to commercial (Phone: 265-1300).
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. The plat proposes one access opening along Hillside. Access controls are approved. The location of the access opening should be defined.
- E. The applicant has dedicated a 10-ft sidewalk and utility easement. The street right-of-way is approved.
- F. City Engineering has requested a No Protest Agreement for future paving of the alley.
- G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

HILLMAN moved, **MCKAY** seconded the motion, and it carried (12-0).

4-2. SUB 2005-94: One-Step Final Plat -- FONTANA SECOND ADDITION, located east of 119th Street West and north of 29th Street North.

NOTE: This is a replat of a portion of the Fontana Addition. The size of the lots has been increased and the number of lots reduced from 56 to 44 lots. The street layout has been revised to include a vacation of a stub to the north.

STAFF COMMENTS:

- A. Petitions have been provided with Fontana Addition for sewer, water, drainage and paving improvements. City Engineering has requested new guarantees.
- B. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.

- C. The platlor's text shall include reference to "lots, blocks, streets and reserves" in the owner's certificate.
- D. **Traffic Engineering** and **City Fire Department** need to comment on the revised street layout, which includes vacation of a stub extending to the north. **Traffic Engineering and City Fire Department have approved the street layout.**
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- F. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- G. If any of the intended recreational uses for the reserves includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
- H. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- I. **GIS** needs to comment on the plat's street names. **Lots 9-14, Block 1 need labeled as "Fontana Cir".**
- J. The portions of the streets being vacated and replatted need to be included in the legal description.
- K. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC has requested additional easements.**
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

HILLMAN moved, **MCKAY** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS – VACATION ITEM – SEPT. 1, 2005**

5-1. VAC 2005-31: Request to Vacate a Portion of Utility Easements

OWNER/APPLICANT: Murdock Companies, Inc., c/o Brenda Blaze

AGENT: Baughman Company, PA, c/o Russ Ewy

LEGAL DESCRIPTION: See attached, but generally described as those portions of two easements located along the south lot lines of Lots 6 & 8, the Mathewson's Addition and the and north line of the vacated ROW of Victor Street

LOCATION: Generally located on the southeast corner of the Wabash Avenue and 1st Street intersection.

REASON FOR REQUEST: Propose to expand existing business

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned "LI" Limited Industrial, except for some "GC" General Commercial zoned properties north of the site.

The applicant is requesting consideration for the vacation of utility easements created by the vacation of Victor Avenue, formerly Boston Avenue; Misc. Book 650, Page 444, August 27, 1969. There is a sewer line and manhole in the western easement and in the vacated Victor Street ROW. There are no sewer lines or manholes in the eastern easement. There are no water lines in the easements or the vacated Victor Avenue ROW. There are no franchised utilities in the easements. The applicant proposes to remove the sewer line (which is actually a private line with only the south 20-feet of it) covered by the western easement to allow expansion of the existing business. The Mathewson's Addition was recorded with the Register of Deeds December 3, 1883.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the utility easements as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time September 1, 2005, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the utility easement created by vacating ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the utility easement dedicated by separate instrument described in the petition should be approved with conditions;
- (1) Vacate only that portion of the easements as described in the legal description. Provide Planning Staff with a metes and bounds description of the vacated easements via e-mail on a word document.
 - (2) Provide Public Works/Water and Sewer with any necessary plans, guarantees and new easements needed for the abandoned and relocated sewer lines and manholes in the easements proposed to be vacated. Retain the easement until Public Works/City Water & Sewer have approved the abandoned and relocated sewer lines and manholes.
 - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (4) All improvements shall be according to City Standards.
 - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the easements as described in the legal description. Provide Planning Staff with a metes and bounds description of the vacated easements via e-mail on a word document.
- (2) Provide Public Works/Water and Sewer with any necessary plans, guarantees and new easements needed for the abandoned and relocated sewer lines and manholes in the easements proposed to be vacated. Retain the easement until Public Works/City Water & Sewer have approved the abandoned and relocated sewer lines and manholes.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

- (4) All improvements shall be according to City Standards.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **DOWNING** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS – VACATION ITEM – SEPT. 15, 2005**

6-1. VAC 2005-32: Request to Vacate a Portion of a Platted Utility Easement.

OWNER/APPLICANT: Elliott Werbin

AGENT: Robert Kaplan

LEGAL DESCRIPTION: Generally described as that portion of the platted 20-foot utility easement, located along the west lot line of the south portion of Lot 5, Block 1, Spenser Gardens 2nd Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the west side of Oliver Avenue, south of Pawnee Avenue and on the north side of the Gypsum Creek Flood Control

REASON FOR REQUEST: Placement of a cell tower

CURRENT ZONING: Subject property is zoned "GC" General Commercial. Abutting property west of the site is zoned "LI" Limited Industrial. Abutting properties north and adjacent property east (across Oliver Avenue) of the site are zoned "LC" Limited Commercial. Gypsum Creek Flood Control abuts the south side of the site.

The applicant is requesting the vacation of the platted 20-foot utility easement that runs parallel to its west lot line. The applicant's site is located in a southern portion of Lot 5, Block 1, Spencer Gardens 2nd Addition. **There is a portion of a sewer line and a manhole in the north portion of the easement. Storm Water is requesting a survey to determine the extent that the easement functions for drainage. Westar has equipment and lines in the easement. There is a platted 35-foot setback that the easement is located in.** The Spenser Gardens 2nd Addition was recorded with the Register of Deeds June 6, 1988.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted 20-foot easement as described in a revised legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - (1) That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time September 1, 2005, which was at least 20 days prior to this public hearing.
 - (2) That no private rights will be injured or endangered by the vacation of the above-described platted easement and the platted setback and the public will suffer no loss or inconvenience thereby.
 - (3) In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted easement and the platted setback described in the petition should be approved with conditions;
 - (1) Vacate the platted 20-foot utility easement, as described in a revised legal description, contingent upon approval by Public Works, Water & Sewer, Storm Water, Westar and any other the franchised utility companies. Retain any easement needed for existing utilities, as recommended by public and franchised utilities. Provide an accurate legal description of the applicant's site and the vacated portion of the easement on a word document, via e-mail.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any recommended easements for relocated utilities. If utilities are to be relocated, retain the easement until they are relocated.

- (3) Retain the easement until Storm Water has evaluated the possible need of the easement for drainage and/or drainage access. Provide Storm Water with a survey showing the existing drainage pattern and any proposed drainage. Provide any recommended replacement easements for the relocated drainage.
- (4) All improvements shall be according to City Standards.
- (5) Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 20-foot utility easement, as described in a revised legal description, contingent upon approval by Public Works, Water & Sewer, Storm Water, Westar and any other the franchised utility companies. Retain any easement needed for existing utilities, as recommended by public and franchised utilities. Provided an accurate legal description of the applicant's site and the vacated portion of the easement on a word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any recommended easements for relocated utilities. If utilities are to be relocated, retain the easement until they are relocated.
- (3) Retain the easement until Storm Water has evaluated the possible need of the easement for drainage and/or drainage access. Provide Storm Water with a survey showing the existing drainage pattern and any proposed drainage. Provide any recommended replacement easements for the relocated drainage.
- (4) All improvements shall be according to City Standards.
- (5) Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **ANDERSON** seconded the motion, and it carried (12-0).

6-2. VAC 2005-33: Request to Vacate a Sanitary Sewer Easement, Dedicated by Separate Instrument

<u>OWNER/APPLICANT:</u>	USD 259 c/o Joe Hoover
<u>LEGAL DESCRIPTION:</u>	Vacate one of the 20-foot utility easements (see attached legal), as dedicated by separate instrument, Film/Page 28556482, (recorded 3-16-2005) on Lots 3 & 4, the College Hill Addition, Wichita, Sedgwick County, Kansas.
<u>LOCATION:</u>	Generally located east of Hillside Avenue, between 1 st Street-Rutan Avenue-Mildred Street-Clifton Avenues.
<u>REASON FOR REQUEST:</u>	Change in building plans
<u>CURRENT ZONING:</u>	Subject property is zoned "SF-5" Single Family Residential and "TF-3" Duplex Residential. All adjacent properties are zoned "SF-5" & "TF-3", except for one property zoned "B" Multi-family Residential.

The applicant is requesting consideration for the vacation of one of the 20-foot utility easements dedicated by separate instrument as described. Per the applicant's exhibit it is not clear if there is a sewer line and manhole in the easement the applicant wants to vacate. There are no water lines in the easement. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. The College Hill Addition was recorded with the Register of Deeds September 30, 1884.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the utility easement dedicated by separate instrument as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

- (1) That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 2, 2005, which was at least 20 days prior to this public hearing.
 - (2) That no private rights will be injured or endangered by the vacation of the above-described portion of the utility easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 - (3) In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the utility easement dedicated by separate instrument described in the petition should be approved with conditions;
- (1) Vacate only that portion of the easement dedicated by separate instrument as described in the legal description.
 - (2) City Water & Sewer/Public Works have accepted the sanitary sewer line and manhole running parallel to the subject easement as a private line.
 - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
 - (4) All improvements shall be according to City Standards.
 - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the easement dedicated by separate instrument as described in the legal description.
- (2) City Water & Sewer have accepted the sanitary sewer line and manhole running parallel to the subject easement as a private line.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense.
- (4) All improvements shall be according to City Standards.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **ANDERSON** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS**

7. **Case No.: CON2005-35** – Southwest Boys Club, Inc., c/o Jason D. Jenkins, Pres (owner); T-Mobile Wireless c/o George Wyrick (applicant); Ferris Consulting c/o Greg Ferris (agent) Request Conditional Use for wireless communication facility on property zoned "B" Multi-family Residential on property described as;

A tract of land lying in and being a part of Lot 1, Southwest Boys Club Addition to the City of Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Southeast corner of said Lot 1; thence North 00 degrees 52'25" W, along the East line of said Lot 1, a distance of 345.26 feet; thence South 89 degrees 07'35" W a distance of 8.00 feet to the point of beginning; thence North 58 degrees 54'25" W a distance of 67.69 feet; thence North 26 degrees 39'04" E a distance of 79.67 feet; thence North 68 degrees 33'43" E a distance of 22.00 feet; thence South 00 degrees 52'25" E, parallel with said East line, a distance of 114.22 feet to the point of beginning. Generally located North of 45th Street south and 1/2 mile west of Seneca (1/2 block west of Clarence Street.)

BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached illustration) for use by T-Mobile Wireless. The proposed site is zoned "B" Multi-family Residential. Wireless Communication Facilities over 85 feet in height in the "B" zoning district may be permitted with a Conditional Use.

The proposed tower would be sited on an irregularly shaped tract that is 0.6 acre in size. It is located approximately 500 feet north of 45th Street South along the eastern edge of the Southwest Boys Club baseball fields, near the light poles for the baseball fields. Access to the site is an existing internal drive for the baseball fields. The applicant's site plan (attached) depicts a chain-line fenced compound with the tower located approximately in the center of the compound.

The applicant indicates (see attached letter) that the proposed wireless communication facility is needed to provide in-building service to the area between Meridian and Broadway and between MacArthur Road and 55th Street. The applicant indicates that they evaluated using two existing towers in the area, and that these other towers do not meet their communication needs. The applicant has provided documentation that the tower will comply with Sec. III-D.6.g requirements of the Unified Zoning Code for providing space for at least two other carriers and removal of unused facilities, compliance with all federal, state and local rules and regulations (including other provisions of Sec. III-D.6.g of the UZC).

The character of the surrounding area is institutional and residential uses. The site is within the Southwest Boys Club facility. The property to the east, zoned "MF-29" Multi-family Residential, is a large vacant site, currently used for detention. A single-family residential development zoned "SF-5" Single-family with a small patch of "TF-3" Two-family Residential is located east of Clarence, approximately ½ block to the east. The property south of 45th Street South is zoned "SF-5" and occupied by Enterprise Elementary School. South Lakes park facility is to the west of Enterprise School. The property to the west of Southwest Boys Club, zoned "SF-5" is developed with a church, and the property to the northwest is a manufactured home park, zoned "MH" Manufactured Home. The northern edge of the Southwest Boys Club is bordered by a thick hedgerow separating it from another tract zoned "MH".

CASE HISTORY: The subject property is platted as part of Southwest Boys Club Addition, which was recorded December 19, 1967.

ADJACENT ZONING AND LAND USE:

NORTH:	"MH"	Vacant
SOUTH:	"SF-5"	Elementary school and park
EAST:	"MF-29", "SF-5", "B"	Vacant, low-density residential
WEST:	"SF-5", "MH"	Church, manufactured home park

PUBLIC SERVICES: No municipally supplied public services are required. The site has access to 45th Street South, a paved local street.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility conforms to the guidelines of the Wireless Communication Master Plan. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. The equipment compound shall be enclosed by a minimum six-foot high solid screening fence constructed of materials that meet the requirements of Sec. IV.B.3.e. of the Unified Zoning Code.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is institutional and residential uses. The site is within the Southwest Boys Club facility. The property to the east, zoned "MF-29" Multi-family Residential, is a large vacant site, currently used for detention. A single-family residential development zoned "SF-5" Single-family with a small patch of "TF-3" Two-family Residential is located east of Clarence, approximately ½ block to the east. The property south of 45th Street South is zoned "SF-5" and occupied by Enterprise Elementary School. South Lakes park facility is to the west of Enterprise School. The property to the west of Southwest Boys Club, zoned "SF-5" is developed with a church, and the property to the northwest is a manufactured home park, zoned "MH" Manufactured Home. The northern edge of the Southwest Boys Club is bordered by a thick hedgerow separating it from another tract zoned "MH".
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "B" Multi-family, and has been developed with a baseball field.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The visual impact on the residential areas to the northwest and east will be the primary effect, but the residential areas are separated by a distance of about 1/8 mile. The presence of the baseball field lights will serve to somewhat reduce the visibility of the base of the tower.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed in an area where a building obscures some of the facility from view. The proposed wireless communication facility complies with the compatibility height standard of the Uniform Zoning Code since it is located more than 150 feet from the nearest lot line of property zoned "TF-3" or more restrictive.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **MCKAY** seconded the motion, and it carried (12-0).

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8. **Case No.: CON2005-34** – Walter L. Branch/Semi Crude, L.P. (Glenn Collum) Request Sedgwick County Conditional Use for a major utility on property zoned "RR" Rural Residential on property described as;

A tract located in the Southwest Quarter of Section Eight (8), Township Twenty-nine (29) South, Range One (1) East of the 6th P.M., Sedgwick County, Kansas and more particularly described as follows:

Commencing at the Southwest corner of said Southwest Quarter; thence N 84 degrees 58'44" E, a distance of 2241.4 feet to the Point of Beginning; thence, N 89 degrees 54'37" E, a distance of 150.0 feet; thence, S 00 degrees 51'49" E, a distance of 150.0 feet to a point on the North Right of Way of County Road; thence, S 89 degrees 40'39" W, along the North Right of Way of County Road a distance of 150.0 feet; thence, N 00 degrees 49'17" W, a distance of 150.0 feet to the Point of Beginning. Generally located 87th Street South and Broadway.

BACKGROUND: The applicant is requesting a Conditional Use to permit a "utility, major" which would allow the installation of a pumping unit on an approximately one-half acre site located north of 87th Street South and approximately one-half mile west of Broadway/U.S 81 Highway. The application area is a 150-foot by 150-foot square piece of land that is zoned RR Rural Residential. The pumping unit will provide additional pressure for a four-inch crude oil pipeline that runs through the eastern third side of the application area. The pump is to be located just west of the pipeline, and will be connected to the pipeline. In the western third of the site a control building exceeding 150 cubic feet is to be located to the west of the pump. A transformer bank and drag reducing agent (DRA) skid is also shown on the site plan. The site is to be fenced and gated. County Public Works has reviewed the proposed site plan and approved the access point.

The *Wichita-Sedgwick County Unified Zoning Code* defines a "utility, major" as a service similar to services and facilities of agencies that provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar services that exceed 150 cubic feet in size and six feet in height that might generate discernable noise, odor or vibration in a residential district. The code permits a major utility as a Conditional Use in the RR district.

Surrounding land is zoned RR Rural Residential and SF-20 Single-family Residential and developed with a mix of agricultural and large-lot residential uses. There are residences located to the east, southwest and further to the northwest.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Rural Residential; agriculture
SOUTH:	SF-20	Single-family Residential, RR Rural Residential; agriculture and residences
EAST:	RR	Rural Residential; agriculture
WEST:	RR	Rural Residential; agriculture

PUBLIC SERVICES: Public services are not required for this installation

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan contains location criterion recommending that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to development of the site in substantial compliance with the approved site plan.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: RR Rural Residential and SF-20 Single-family Residential zoning surrounds the application area. Nearby uses range from large-lot suburban type residential to agricultural.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as zoned, however the proposed installation will have to be sited along the pipeline to accomplish the desired end.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The installation should not detrimentally impact nearby properties. It is approximately 700 feet to the nearest residence.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would force the applicant to find another location and probably be an economic hardship. Crude oil is a product used by virtually everyone. Installations necessary to transport crude oil would normally be beneficial to the public's welfare.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan contains location criterion recommending that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas. This site is reasonably remote from residences.
6. Impact of the proposed development on community facilities: None identified.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0).

9. **Case No.: ZON2005-33** – Masterson & Associates Inc, Larry Underhill and Ty Masterson (applicants) Request Zone change from "SF-5" Single-family Residential to "NO" Neighborhood Office on property described as;

The south 96.05 feet of the east 226.75 feet of the Northeast Quarter of Section 20, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, EXCEPT the east 40 feet thereof for street. Generally located Northwest of the Tyler and 2nd Street intersection (303 N. Tyler).

BACKGROUND: The applicant requests NO Neighborhood Office zoning on a .4-acre site, currently zoned SF-5 Single-family Residential. The proposed use is a neighborhood office building; the site is generally located west of the Tyler and 2nd Street intersection. The site is currently developed with a 1,846 square-foot house. North, south and west of the application area are SF-5 zoned single-family residences. East of the site, across Tyler, is an SF-5 zoned middle school, and an NO zoned dental office at the Tyler and 2nd intersection. The application area is approximately ½ mile south of Central, and ½ mile north of Maple; LC Limited Commercial zoning and development exists at these two corners.

A vacant SF-5 zoned lot located northeast of Tyler and Douglas, approximately 1,100 feet south of the application area, was approved for rezoning to NO in 2004 with a protective overlay (PO); conditions have not been met to finalize that rezoning. Approximately 900 feet north of the application area, abutting an LC zoned commercial CUP, two SF-5 zoned lots were rezoned to GO General Office and NR Neighborhood Retail, with a PO, in 2000.

CASE HISTORY: The application area is platted as Lot 2 of the Woods Replat of Westfield Acres Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single-family residential
SOUTH:	"SF-5"	Single-family residential
EAST:	"SF-5"	Middle school
	"NO"	Dental office
WEST:	"SF-5"	Single-family residential
	Neighborhood Office	

PUBLIC SERVICES: Current traffic counts on this segment of Tyler are 21,614 vehicles per day. Tyler is a four-lane, section line arterial street at this location with a 40-foot half width right-of-way (ROW). The 2030 Transportation Plan indicates that this section of Tyler will become a five-lane arterial. The 2005-20014 CIP shows Tyler improvements being made between 2012 and 2014. The application area currently has one access point onto Tyler, approximately 35 feet north of the 2nd Street intersection.

All other normal public services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area as appropriate for "urban residential".

The Office Locational Guidelines of the Comprehensive Plan recommend that office sites be generally located adjacent to arterial streets. Local, service oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development. And, low-density office use can serve as a transitional land use between residential uses and higher intensity uses.

The UZC would require compatibility setbacks between non-residential and residential development, as well as a screening requirement from residential zoning and uses. Conformance with the Landscape Ordinance would be required for this proposal.

RECOMMENDATION: The proposed NO zoning and development would allow a range of commercial and office uses not permitted under the current SF-5 zoning. The proposed zone change is not in conformance with the Functional Land Use Guide, and is not in conformance with the Office Locational Guidelines of the Plan.

Nearby rezonings on this portion of Tyler have been at corner locations (where vehicles could enter from a side street) or have been next to existing commercial zoning, therefore serving as a "transitional" zoning. This proposed rezoning would have SF-5 zoned single-family residences surrounding it on three sides. Left turn access to or from this site would cause traffic conflicts at the 2nd Street intersection. This section of Tyler has a relatively high traffic volume; a mid-mile non-residential use at this location is not advisable from a traffic safety perspective.

MAPD has been contacted by two neighbors opposed to this case because of traffic concerns.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This proposed rezoning and land use is out of character with SF-5 zoning and single-family residences on three sides of the application area. While an NO zoned dental office exists across Tyler from the site, that development is on a larger lot, on a corner with access to 2nd and Tyler, and has a school use to it's north.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as a single-family residence as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning and the proposed development could have negative effects on the single-family residences surrounding the application area through increased vehicular traffic in this area. Vehicular traffic to and from the application area could cause traffic conflicts on Tyler and at the 2nd Street intersection.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as appropriate for "urban residential" development, which is not in conformance with the application. The proposed rezoning is not in conformance with the Office Locational Guidelines of the plan, in that the site is not adjacent to community commercial development, and would not serve as a transitional land use from more intense development.
5. Impact of the proposed development on community facilities: The proposed office development could increase traffic at this location on Tyler. Vehicles entering or exiting this site would impede traffic flow on Tyler, and would cause traffic conflicts with vehicles turning on to or off of 2nd Street.

JESS MCNEELY I have just passed out before this meeting today a roster of support signed from four addresses, which we received from the agent for the applicant. In addition, staff has received three calls from opposed neighbors that live in the immediate area, and most of these neighbors have been opposed to this zone change request based on traffic conflicts that they would anticipate at this location.

MCKAY Just north of this location, are those apartments?

MCNEELY No, it is all single-family residential until you get to the "GO" & "NR" zoning that I spoke about abutting the "LC" corner.

MCKAY Go back to your aerial photo, just about two blocks north of that what is that big complex there?

MCNEELY That is single-family residential there.

MCKAY That one great big lot is single-family?

MCNEELY I believe there is a drainage way that runs behind these backyards where Wood Street dead-ends to this drainage way and then heads east/west to Tyler.

MCKAY See the red up there what is the big lot just south of it?

GOLTRY I believe the apartments are in the "LC" zoning.

AUDIENCE That is a church.

SHERMAN The two lots from where the house is located, the one in question, you have the two lots going to the north and two lots going to the south, those are all occupied right now with residences?

MCNEELY Yes.

MITCHELL Could you indicate where on the map the lots that these people who wrote letters live?

MCNEELY I believe the letter that you received came from the lot immediately north of the application area.

MITCHELL It would be adjacent to the drainage?

MCNEELY Yes, it would be adjacent to the drainage and would front onto Tyler. I believe the one at the corner of Tyler and Rolling Hills sitting at the southwest corner signed as well.

CHRIS BOHM, Ruggles and Bohm agent About the letters, from my discussion with Mr. Underhill it is the two lots to the north who have signed in support, two properties to the south, and the one to the west have signed in support of this application. We feel this property is suitable for office zoning given its proximity to the dental office across the street at the intersection. Also, the school across the street, in essence it is residential zoned but it really functions more as a business than it does as a residence with limited driveways, limited pick up and drop off times. Tyler Road was developed years ago with residential frontage unlike is allowed today, and over time, especially as Tyler Road will turn into a five lane arterial street, a couple of things will happen. Medians will be built in Tyler to prohibit left turns for traffic safety, and I think it is doubtful that homes would deteriorate to the point of destruction that they would be rebuilt as residential homes.

The focus of staff has been on the traffic movement. The conflicting left turn movements with the subject property and 2nd Street, which we agree would be in conflict. I have worked with Paul Gunzleman, the Traffic Engineer, and we have a right-in/right-out configuration that he is agreeable with to use on this site. I have a sketch plan of that here today if you would like to look at it. The applicant is agreeable to prohibit left turns into the subject property.

LARRY UNDERHILL, 6909 W. Clearmeadow On the drawing that you saw there is a dental office directly across the street but what you can't see on that drawing on the west side of Tyler in less than a block away there is a new dental office or doctors office that has opened and they just opened 30-40 days ago. I have visited with the principal of the Wilbur Junior High School and all of my children attended that school, and the principal is supportive of the rezoning change on this property. The homes on Tyler between Central and Maple take three to four times longer to sell and take about two to three years to sell.

This house would be used for agents and receptionist and the secretarial assistants. The hours of operations would be from 8-5 p.m., Monday-Friday, so there would no traffic after 5 p.m., so we would have less traffic than a family of 4-5. I know the people on both sides of this property and just walking Tyler I checked with several property owners and have no objections from those that are right on Tyler.

SIDE B TAPE 1 TAPE CHANGE

MITCHELL Mr. Bohm, what is the right-of-way on the west side of Tyler right now?

BOHM I believe it is 40 feet right now.

MITCHELL If this zoning is approved would there be a request for an additional 20 feet of right-of-way normally asked for by the Traffic Engineer?

BOHM Such a request has not been made. They may ask for it but I don't know that a zone change would make mandatory the giving up of an additional 20 feet of right-of-way.

MITCHELL If that was done what would that do to this site?

BOHM It would intrude on the parking plan that we have developed for this site but I would contend that by the time road improvements would be undertaken in 4-5 years from now that he would more then likely transformed that building into something else that would be setback further from the road.

MITCHELL That would not make you change your application if that additional 20 feet were requested?

BOHM If it were requested in such a fashion that it could be contingent that when road improvements were initiated that it would convert, I don't think Mr. Underhill would have a problem with that at all.

MCKAY Jess, normally on this when staff recommends denial you put down reasons why you recommend denial which you have down but you have not added in the report that in the event that it is approved here are some requirements that must be added. So if the motion is made for approval it can't be subject to anything because you don't have anything on our report that says subject to if it is approved.

MCNEELY I think the Planning Commission could make it subject to whatever they would wish it to.

MCKAY I understand that, but usually you give us guidelines to go by in the event that it is approved. It is not in here and I don't think the applicant knows what is in it either if we approve it.

MCNEELY I would say that we haven't always thrown out conditions if it is recommended for approval. I am aware that it has been done in the past.

MCKAY I can't think of hardly any cases if the application is recommended for denial by staff that they have not given us the requirements.

MILLER We typically do but I guess it was staffs opinion this time that this did not met any of the location criteria so we were not going to suggest alternatives.

MOTION: To deny the application based on the staff findings.

BISHOP moved, **SHERMAN** seconded the motion.

SUBSTITUTE MOTION: To approve the application.

HENTZEN moved, **MITCHELL** seconded the motion.

MITCHELL I will second the motion, but I am concerned about the 20 foot additional right-of-way, whether we should make that recommendation at this point or wait for subdivision plat and wait for somebody to say, why didn't you tell us?

GOLTRY The property is already platted so you would need to do so at this time.

HENTZEN I would amend my motion to include a 20-foot contingent dedication.

MARNELL Are we including the right-in/right out for traffic considerations in that motion?

HENTZEN The owner said that they accept it as a condition.

MARNELL I know they did say that but since we have no requirements it would seem appropriate that we would put that in.

HENTZEN Yes, I will amend my motion to include the right-in/right out.

MITCHELL I will accept both amendments to the originally motion.

BISHOP The reason that I offered to deny the application is that I think it is appropriate based on the planning policy that we have established, and I think that poor planning decisions that assume that arterials have to strip out piece by piece lead to worse planning decisions. I agree with the DAB report and with their concerns.

AMENDED SUBSTITUTE MOTION: To approve the application, with the requirements of a 20-foot contingent dedication, and right-in/right out only on the access.

HENTZEN moved, **MITCHELL** seconded the motion.

SUBSTITUTE MOTION carries 9-3. (**HILLMAN, BISHOP, SHERMAN** opposed)

MCKAY left at 2:36 p.m.

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10. **Case No.: CON2005-33** – Joe Smith/Semi Crude, L.P. (Glenn Collum) Request Sedgwick County Conditional Use for a major utility on property zoned "RR" Rural Residential on property described as;

A tract located in the Southeast Quarter of Section 31, Township 26 South, Range 2 West, 6th Prime Meridian, Sedgwick County, Kansas and More particularly described by metes and bounds as follows:

Commencing at the Southeast corner of said Southeast Quarter; Thence, N 18 degrees 54'55"W, a distance of 479.0 feet to the Point of Beginning; Thence, N 02 degrees 03'11" W, a distance of 150.0 feet to a point; thence N 87 degrees 37'13" E. a distance of 100.00 feet to a point on the West Right-of-Way of a county road; Thence, S 02 degrees 06'46" E along the West Right-of-Way of a county road, a distance of 150.0 feet to a point; Thence, S 88 degrees 02'47"W, a distance of 100.0 feet to the Point of Beginning. Containing +0.34 acres of land, more or less. Generally located Northwest of 29th Street North and 199th Street.

BACKGROUND: The applicant is requesting a Conditional Use to permit a "utility, major" which would allow the installation of a pumping unit on an approximately one-third - acre site located north of 29th Street, approximately ¼-mile, and west of 199th Street. The application area is a 100-foot by 150-foot square piece of land that is zoned RR Rural Residential. The pumping unit will provide additional pressure for a crude oil pipeline that runs diagonal through the northeastern portion of the application area. The pump is to be located west and south of the pipeline, and will be connected to the pipeline. In the southern third of the site a control building exceeding 150 cubic feet is to be located to the south of the pump. A transformer bank and drag reducing agent (DRA) skid is also shown on the site plan. The site is to be fenced and gated. County Public Works has reviewed the proposed site plan and approved the access point.

The *Wichita-Sedgwick County Unified Zoning Code* defines a "utility, major" as a service similar to services and facilities of agencies that provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar services that exceed 150 cubic feet in size and six feet in height that might generate discernable noise, odor or vibration in a residential district. The code permits a major utility as a Conditional Use in the RR district.

Surrounding land is zoned RR Rural Residential and developed with farmsteads agricultural uses. There are residences located to the southeast and south.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: RR Rural Residential; agriculture
SOUTH: RR Rural Residential; agriculture and farmstead
EAST: RR Rural Residential; agriculture and farmstead
WEST: RR Rural Residential; agriculture, farmstead

PUBLIC SERVICES: Public services are not required for this installation

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan contains location criterion recommending that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to development of the site in substantial compliance with the approved site plan.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: RR Rural Residential Single-family Residential zoning surrounds the application area. Nearby uses are farmsteads and agricultural.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as zoned, however the proposed installation will have to be sited along the pipeline to accomplish the desired end.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The installation should not detrimentally impact nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would force the applicant to find another location and probably be an economic hardship. Crude oil is a product used by virtually everyone. Installations necessary to transport crude oil would normally be beneficial to the public's welfare.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan contains location criterion recommending that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas. This site is reasonably remote from residences.
6. Impact of the proposed development on community facilities: None identified.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0).

11. **Case No.: PUD2005-04 #20** – City of Wichita c/o John Philbrick (owner); PEC, PA c/o Rob Hartman (agent) Request The creation of the 21st Street Kids and Family Empowerment Planned Unit Development on property described as;

Block 1, Block 2, Block 3, Reserves A, B and C, Logopedics Addition to Wichita, Sedgwick County, Kansas.

EXCEPT that part of Block 1 described as:

Beginning at the Southwest corner of said Block 1; thence North along the West line of said Block 1, 685.00 feet; thence East parallel to the South line of said Block 1, 90.00 feet; thence south parallel to the West line of said Block 1, 43.00 feet; thence East parallel to the South line of said Block 1, 168.37 feet to West right-of-way of Jardine Drive, thence South along the West right-of-way of Jardine Drive 642.00 feet to a point on the South line of said Block 1; thence West along the South line of said Block 1, 258.37 feet to the point of beginning.

AND EXCEPT that part of Block 2 described as:

Beginning at the Southeast corner of said Block 2; thence North along the East line of said Block 2, 468.50 feet; thence West parallel with the South line of said Block 2, 258.37 feet to a point on the East right-of-way of Jardine Drive; thence South along the East right-of-way of Jardine Drive, 468.50 feet to a point on the South line of said Block 2; thence East along the South line of said Block 2, 258.37 feet to the point of beginning.

as shown by the last deed of record filed in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 15th day of July, 2005 at 7:00 A.M. Generally located 1/8 mile north of 21st Street North, east and west of Jardine Drive.

BACKGROUND: PUD #20 21st Street Kids and Family Empowerment Planned Unit Development would consist of a four-parcel development with several kinds of community facilities. The property is located in the area between 21st Street North and 25th Street

North on both sides of Jardine Drive. Jardine Drive is a parkway with a landscaped area approximately 70 feet wide that runs northward ¼ mile, and terminates with a loop. Traffic will be one-way on each leg of the Jardine parkway.

Parcel 1 is located east of Jardine Drive and is 5.35 acres in size. The TOP Facility, a proposed preschool center, is the intended use for the site. Parcel 2 is located west of Jardine Drive and directly across from Parcel 1. It is 4.23 acres and would allow a range of community type uses, including governmental services, recreational uses, day care, general, and community assembly. A specific use is not identified for the site. Parcel 3 is located on the turnaround loop of Jardine Drive and is 5.58 acres in size. The new Boys and Girls Club is the intended use of this site, and the parcel would also allow governmental services, recreational uses, general day care and community assembly. Parcel 4, which is 8.87 acres in size, has its access only from 25th Street North. Possible uses include governmental services, recreation uses, school and community assembly.

Reserve "A" is the small parkway area abutting 21st Street North and is about 1/8 mile south of the main development parcels. Reserve "A" is intended for open space, signage, landscaping, and sidewalks. Reserve "B" is a 1.78-acre tract inside the parkway that is intended for open space, landscaping, monument signage, picnic and pavilion use.

The PUD provides architectural compatibility among the parcels with exterior building materials of stone, stucco, brick or wood. It provides for landscaping buffer along the edge of the PUD, along the streets and within parking lots. Light fixtures are to have consistent design, be shielded to prevent light spillage into adjacent residential areas; additionally the height of lighting fixtures is restricted to 14 feet within 100 feet of residential zoning. Maximum building height would be 35 feet. Maximum building coverage would be 30 percent. Parking requirements are per code.

Setbacks are 35 feet for the perimeter property lines, 10 feet along Jardine Drive for Parcel 1 and Parcel 2, and 20 feet along Jardine Drive in the front of Parcel 3. These setbacks along Jardine Drive are narrower than standard Unified Zoning Code requirements. The advantage of the PUD is to allow this type of flexibility. It allows better utilization of the narrow lots and brings the buildings closer to the drive and parkway. Vehicle drop-offs are provided, and the narrower setbacks are better designed to encourage pedestrian traffic in the development. The placement of the parking lot to the side rather than in the front of the day care center enhances the site for maximum utilization of a narrow tract, encourages pedestrian access, and enhances the visual appearance since the building increases in prominence with respect to the parking.

Internal access for Parcels 1, 2 and 3 is via the one-way divided Jardine Drive parkway opening onto 21st Street North. A narrower pavement width of 21 feet back of curb to back of curb is requested to maintain the character of the parkway and a mature stand of existing trees. On-street perpendicular or angle parking is requested to provide short-term parking near building entrances. In the original development, 24th Street North bisected the property to connect it with the residential development to the east and west, but this connection was only used on the west, perhaps because of the steep grade on the east side. The 24th Street connection has been blocked and would not be reopened.

Parcel 4 requests two openings onto 25th Street North.

Pedestrian circulation is shown along the outside of Jardine Drive and crossing the over parkway near the northern edge of Parcels 1 and 2. Additional crossings and detailed pedestrian connections will be reviewed during the building permit process, with consideration of potential connections at the points of 23rd Street and 24th Street in the adjacent neighborhoods.

Requested ground signage for Reserve "A" and Reserve "B" is one monument sign 25 feet in height and 250 square feet in maximum sign face area. For Parcels 1-4, it is one monument sign with a maximum height of 15 feet and maximum sign face area of 150 square feet per parcel. Building signage is requested per Wichita Sign Code for the "GO" General Office. Off-site and portable signs are prohibited.

The property formerly was known as the Institute of Logopedics, then Heartspring, agencies that provided services for children with disabilities. Most of the site has been vacant since Heartspring relocated in the mid-1990s. A few of the courtyard residential cottages that originally flanked Jardine Drive remain onsite, but will be removed for the day care center. The main building was located on the area designated as Parcel 3. Parcel 4 has been vacant since the 1950s.

Other uses in the vicinity include the Cessna 21st Street Learning Center and Sub-assembly Facility (adult job training) located on 21st Street North along the both sides of Jardine. The Cessna training sites are zoned "LC" on east and "GC" on the west. The rest of the surrounding area is developed with "SF-5" Single-family Residential housing except for a strip of four-plexes to the east of Parcel 1 that are zoned "MF-29" Multi-family Residential. A church is located to the northeast on property zoned "LC" Limited Commercial.

CASE HISTORY: The property is platted as Logopedics Addition, recorded June 23, 1948.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residences
EAST: "MF-29"; "SF-5"; "LC"	Single-family residences, four-plexes, church
SOUTH: "LC"; "GC"	Cessna 21st Street Learning Center and Sub-assembly Facility
"SF-5"	Single-family residences

PUBLIC SERVICES: Transportation access for Parcels 1, 2 and 3 is via the divided parkway entrance/exit of Jardine Drive onto 21st Street North, located one block east of Grove Street, which is a signalized intersection. 21st Street North is a five-lane arterial (two lanes in each direction plus a continuous center left-turn lane). 2003 traffic volumes on 21st Street North at Grove were approximately 18,000 cars per day. Projected 2030 volumes are 23,000 cars per day.

Two access openings are requested for Parcel 4 onto 25th Street North, a local two-lane residential street, located one block west of Grove (a collector). Traffic counts were not available for 25th Street North. Public water and sewer services are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identify the site as "major institutional". The PUD is in conformance with the *Comprehensive Plan*. The PUD supports implementation of the Central Northeast Area Plan **Initiative 7. Improve the Quality of Life for All Neighborhood Children.**

The site is located within the area identified for "re-establishment" on the Wichita Residential Area Enhancement Strategy Map of the *Comprehensive Plan*. Clustering similar institutional uses should encourage re-establishment of the residential areas nearby.

The Public/Institutional Locational Guideline #1 of the *Comprehensive Plan* states "Those public facilities (such as branch libraries, schools and post offices) that service residential areas should be grouped together along with neighborhood commercial centers and located near parks or along intersections of greenways/recreational corridors." This site is being developed with slightly different uses, including child-related services such as preschool, day care, potentially elementary school, plus a recreation/activity center for elementary and school aged children. The property offers a unique clustering of these complementary uses, and offers support services for the adjacent Cessna job-training site. Secondly, the site is accessed via a major arterial (21st Street North), in compliance with **Guideline #2**.

RECOMMENDATION: The PUD is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code by:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed PUD meets these criteria in several ways. The types of uses proposed for the parcels are based on compatible set of community and institutional uses designed to provide school, day care, community assembly uses that do not fit easily into the "pure" zoning use classifications of the UZC. The PUD redevelops a mostly-vacant property originally intended for a similar social service type of use, and would be anticipated to spur further redevelopment in the area. The greater flexibility of the PUD district has enabled the development plan to utilize narrower setbacks, customized signage, adaptive parking locations, and encourage pedestrian circulation.

Based on these comments and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following conditions:

1. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
2. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
3. Prior to publishing the resolution establishing the PUD zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as PUD #20) includes special conditions for development on this property.
4. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property formerly was known as the Institute of Logopedics, then Heartspring, agencies that provided services for children with disabilities. Most of the site has been vacant since Heartspring relocated in the mid-1990s. A few of the courtyard residential cottages that originally flanked Jardine Drive remain onsite, but will be removed for the day care center. The main building was located on the area designated as Parcel 3. Parcel 4 has been vacant since the 1950s. Other uses in the vicinity include the Cessna 21st Street Learning Center and Sub-assembly Facility (adult job training) located on 21st Street North along the both sides of Jardine. The Cessna training sites are zoned "LC" on east and "GC" on the west. The rest of the surrounding area is developed with "SF-5" Single-family Residential housing except for a strip of four-plexes to the east of Parcel 1 that are zoned "MF-29" Multi-family Residential. A church is located to the northeast on property zoned "LC" Limited Commercial.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as zoned, but it would lack the flexibility in site development regulations to achieve the cohesive development pattern requested.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Very few detrimental effects are anticipated. The amount of traffic and intensity of use of the property would increase tremendously, but the access and the landscaping, and site development provisions are adequate to reduce the impact on the adjoining properties.

4. Length of time the property has remained vacant as zoned: Since the mid-1990s.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identify the site as "major institutional". The PUD is in conformance with the *Comprehensive Plan*. The PUD supports implementation of the Central Northeast Area Plan **Initiative 7. Improve the Quality of Life for All Neighborhood Children**. The site is located within the area identified for "re-establishment" on the Wichita Residential Area Enhancement Strategy Map of the *Comprehensive Plan*. Clustering similar institutional uses should encourage re-establishment of the residential areas nearby. **The Public/Institutional Locational Guideline #1** of the *Comprehensive Plan* states "Those public facilities (such as branch libraries, schools and post offices) that service residential areas should be grouped together along with neighborhood commercial centers and located near parks or along intersections of greenways/recreational corridors." This site is being developed with slightly different uses, including child-related services such as preschool, day care, potentially elementary school, plus a recreation/activity center for elementary and school aged children. The property offers a unique clustering of these complementary uses, and offers support services for the adjacent Cessna job training site. Secondly, the site is accessed via a major arterial (21st Street North), in compliance with **Guideline #2**.
6. Impact of the proposed development on community facilities: The impact should not be greater than the capacity of the streets and other public facilities for this urban corridor intended for urban scale

DOROTHY CULVER 2268 N. Minnesota I did not know how this meeting was going to be conducted today. I read that there will be a DAB meeting on October 3rd. Do I understand that I can get some input at that meeting if I go to that meeting?

WARNER Yes, you can have some input, but if a decision is made today, it may be a little late.

GOLTRY The final action of this activity is taken by City Council, so there will be opportunity for input at the DAB, but we can also explain it today to give you the information.

CULVER I was concerned, looking at the map that all of this part on the map would be cut off from the public, and you would have to go this way or that way to get to 21st Street from 25th Street. I don't like to have a great big area cut off where you can't get through. I remember I had to go that way to catch the City bus.

GOLTRY This is a Planned Unit Development with a variety of public institutional type uses. What they are planning is four lots. Immediately east of this drive, there will be a daycare center that helps support the daycare needs of employees at the Cessna training center. To the north is a site for a Boys and Girls Club. To the west is another site for similar types of community-based uses. And on north along 25th Street is a fourth lot that will be available for future types of community uses. In terms of pedestrian connections, those will be allowed. So you will not be cut off from it. But there will not be through vehicle traffic from 21st to 25th.

SHERMAN I would like to see where the speaker lives in regards to this application.

GOLTRY Explains the access points.

CULVER I have several family members that live around this area and I am concerned about the access.

WENDELL PEEK, 2507 N. Piatt My question is about automobile traffic. I noticed on the map, are they going to open this to 24th Street? It looks like they are going to use the Jardine loop from 21st Street to route all of the traffic through this way. Is this correct?

GOLTRY That is correct.

PEEK Is this going to be able to take care of the problems, so that it will not become more of a nightmare of excessive automobiles up and down Piatt Street.

GOLTRY They are not proposing to use 24th Street as a connection. The only connection is off of 21st Street.

FRED ATKINS At the corner of 23rd and Poplar, are they going to buy that or are they just rezoning the area.

GOLTRY No, they are not planning to buy property on the other side of Grove as part of this project. This project is limited to redevelopment of the old Heartsprings site, and prior to that it was the Institute of Logopedics site. It does not impact the ownership of your property whatsoever. I will point out that you are not the first person who has called and asked that question. But that is a rumor, and the City is not buying other property in the vicinity to my knowledge.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **BISHOP** seconded the motion, carried 11-0.

12. **Case No.: CON2005-36** – Hope Properties II Lp, Matt Catanese (owner/applicant) Request Conditional Use for multi-family residential in "TF-3" Two-family Residential on property described as;

Lots 174, 176, 178, 180, 182, 184, 186, 188 and 190, on Holyoke Avenue, and Lots 183, 185, 187 and 189, on Fairmount Avenue, all in Fairmount Addition, an Addition to the City of Wichita, Kansas, Sedgwick County, Kansas. Generally located 100 feet north of 13th Street North on the east side of Holyoke.

BACKGROUND: The applicant requests a Conditional Use to allow multi-family use in TF-3 Two-family zoning on a 0.26-acre platted lot. The site is developed with a duplex, and the attached site plan indicates that it will remain a duplex. However, the site is being redeveloped (as indicated on the attached site plan) as part of a larger multi-family development, to include parking, recreational facilities, and a laundry facility – all to be used by the larger multi-family development. The site is located north of 13th Street North and on the east side of Holyoke; the site currently has access from both 13th and Holyoke, and is proposed to maintain access from 13th and Holyoke.

The character of the surrounding area is a mixture of single-family, two-family, and fourplex residential development. North and east of the site is TF-3 zoning with a mixture of single and two-family development. South of the site is MF-29 zoning with fourplex development, and west of the site is a mix of TF-3 and MF-29 zoning with single and two-family uses.

Multi-family use is a Conditional Use in the TF-3 zoning district, allowing more than two dwellings per legal lot, but maintaining the TF-3 density requirement of a 3,000 square foot minimum area per dwelling unit. The *Unified Zoning Code* (UZC) would require screening and landscaping between the proposed multifamily use and existing TF-3 zoning to the north and east.

CASE HISTORY: The property was platted as Lots 174, 176, and 178 of the Fairmount Addition in 1887. The property was granted an administrative adjustment in 2005 reducing the parking requirement from 27 to 23 spaces, and permitting parking within the front and street side setbacks.

ADJACENT ZONING AND LAND USE:

NORTH: "TF-3"	Single-family and two-family residences
SOUTH: "MF-29"	Fourplexes
EAST: "TF-3"	Single-family and two-family residences
WEST: "TF-3", "MF-29"	Single-family and two-family residences

PUBLIC SERVICES: The subject property has access to both 13th Street North and Holyoke; Holyoke is a paved residential street with a 60-foot right-of-way. 13th Street is a four-lane arterial with a 60-foot right-of-way at this location; the "2030 Transportation Plan" of the Comprehensive Plan indicates that it will remain a four-lane arterial. The subject property is connected to public water and sewer. As this request does not increase the actual residential density on the site, no impacts on public services are anticipated.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Functional Land Use Guide" of the Comprehensive Plan designates this area as appropriate for "urban residential" development, which is defined to include a range of housing types and residential-serving uses. The application area is within the recently approved Central-Northeast Area Plan, which does not address the residential land use issues of this request. As recommended for approval, this request conforms with adopted policies.

RECOMMENDATION: The application area seeks a Conditional Use for multi-family so that facilities (parking, recreational, and laundry) can be placed on this site to be used by the greater multi-family development. The Conditional Use will be subject to an approved site plan. The submitted plans show the application area dwelling unit remaining a duplex; therefore the actual residential density on the site will not be increased. The site plans also call out the necessary screening and landscape buffer, which should mitigate potential negative effects on the residences to the north and east. Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED, subject to the following conditions:

1. The site shall be subject to all requirements of the Unified Zoning Code.
2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
3. Outdoor lighting shall be limited to 14 feet in height, and shielded away from surrounding properties.
4. The site shall be developed in general conformance with the approved site plan and landscape plan.
5. Construction of improvements shall be completed within one year of approval of the Conditional Use.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a mixture of single-family, two-family, and fourplex residential development. North and east of the site is TF-3 zoning with a mixture of single and two-family development. South of the site is MF-29 zoning with fourplex development, and west of the site is a mix of TF-3 and MF-29 zoning with single and two-family uses. The proposed Conditional Use for multi-family is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used for a two-family residence. Multi-family is allowed as a "Conditional Use" in TF-3; the applicant-submitted site plan demonstrates that the site will continue to be used as a two-family residence, but will have onsite facilities for the greater multi-family development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on surrounding properties from use of the multi-family facilities on this site should be minimized by the required screening and landscape buffering.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The "Wichita Functional Land Use Guide" of the Comprehensive Plan designates this area as appropriate for "urban residential" development. The Unified Zoning Code makes provisions for multi-family use as a Conditional Use in "TF-3". This application complies with recognized plans and policies.
5. Impact of the proposed development on community facilities: The request should have no impact on community facilities.

MADISON WEST, 1419 Fairmount, 67208 My property backs right up to this proposed conditional use. I find this application conflicts with our neighborhoods needs and goals for another multi-family classification in our two-family area. Hope Properties is currently rebuilding Hope Apartments on the north side of 13th Street and this is the 3rd of the 4th major reconstruction of these properties in the 50 years that we have lived up here. Hope Properties has received a grant for the remodeling and the Holyoke dwelling that they are concerned about is immediately north of that. The management of the apartments has been the problem. These apartments were built in the 1940's for WSU students. The student renters are fewer and the upkeep has deteriorated and lower income renters filled them, and there was some hard use and pretty rough renters prompted the owners to close the doors. Fairmount Neighborhood has had to turn to police for help. A number of the occupants were prostitutes, several were involved in neighborhood robberies and often the small apartments have single mother apartments had more children than spaces. We hope that they select renters who are compatible with single-family housing in two-family zoning. Given this background as a 50-year residence at this corner of the WSU neighborhood I request that this Conditional Use request be denied.

JOHN YOULE, JEFF GRABLE ASSOC., 1300 E. LEWIS, 67211 We are architects on this project, and I am representing the applicant. I understand that staff is in favor of the application. These buildings have been here a number of years and what we are doing is improving a run down piece of property, including new parking, paving, lighting, and handicapped accessibility. We are doing a complete exterior renovation, which will improve the appearance for the neighborhood and the residence that live there in the home.

MADISON WEST The property he had marked there is entirely different than the properties that they have in there redevelopment of their apartment area. They are adjoining this big multiple complex to this one place and my neighbors are going to enjoy where the basketball goal was the back fence.

YOULE This building was included in our site plans submitted and approved by the City of Wichita. This in fact is a duplex and not a single-family residence, and has been for a number of years and that is what it will continue to be on this particular lot.

HENTZEN Is your application for just that one lot or are you talking about the other 5 lots?

YOULE It is just the one lot.

MOTION: To approve subject to staff recommendation.

BISHOP moved, **ALDRICH** seconded the motion.

BISHOP I would like to point out in the staff recommendation it states that the submitted plans show the application area dwelling unit remaining as a duplex, therefore the actual residential density on the site will not be increased. Also it will call out screening and landscape buffering and should mitigate potential negative effects on the residences to the north and east.

Motion carries 11-0.

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13. **Case No.: CUP2005-40 DP 23** – Clear Lakes, Inc., c/o Ted M. Hill (owner); John Tasset (agent) Request Amendment #15 to the Marina Lakes Community Unit Plan on property described as;

Lot 1, except the East 65 feet thereof, Marina Lakes 8th Addition, Wichita, Sedgwick County, Kansas. Generally located Location: South of 21st Street North 1/3 mile west of Amidon.

BACKGROUND: The applicant is requesting to amend Parcel 10, zoned "LC" Limited Commercial, of DP-23 Marina Lake Development Community Unit Plan. The amendment would increase gross floor area and maximum building coverage from 8,000 square feet to 10,000 square feet. Retail, general, would be added as a permitted use, and a restriction on drive-through windows would be removed.

The increase from 8,000 square feet to 10,000 square feet is a 20 percent increase in maximum building coverage. This exceeds the maximum 10 percent increase that can be granted administratively. If granted by amendment, the maximum building coverage would increase from 11 to 13 percent, which still is low compared to typical CUP building coverage rates of 25 to 30 percent. But, this site could not sustain a typical coverage rate due to the steep slope of the southern 1/3 of the parcel. The requested 13 percent seems to allow a sufficient pad site located north of the steeply sloped rear portion of the site for the 10,000 square foot building plus parking and landscaping.

The current use provisions for the parcel are: "Proposed Uses: financial services, office and restaurant (including drive-in or drive-through restaurant). Only one restaurant with drive-in or drive-through facilities is permitted on the parcel, and it must be located on the eastern 135' of the parcel." Other parcel provisions are a maximum of three buildings and signage per Wichita Sign Code for the "NR" Neighborhood Retail District".

The restriction on drive-through windows was added as a condition of approval of Amendment #14 by MAPC when development of the site was considered previously. The restriction was to keep noise, lights and queuing traffic away from the apartment buildings located about 105 feet (northernmost building) and 125 feet (other buildings) west of the property line. If this restriction is lifted, new protections on screening, noise and lighting should replace the distance requirement.

Parcel 10 is vacant. The amendment is requested to allow construction of a 10,000 square foot strip commercial building. Proposed tenants are a pharmacy with a drive-through window on the eastern end of the building, a restaurant with a drive-through window on the western end of the building, and several tenants between.

The parcel was created in 1998 from a filled-in portion of a sand pit and was previously zoned "SF-6" Single-family Residential when the residential uses to the north, west and south were developed. Pelican Point, an apartment complex zoned B" Multi-family Residential adjoins the site on the west. Pelican Point is Parcel 7 of DP-23. Marina Lake borders the site on the south. Marina Lake is a "Reserve", zoned "SF-5" and is Parcel 11 of DP-23. More apartments (zoned "B") are located on Parcel 8 south of Marina Lake. Benjamin Hills, a single-family residential neighborhood zoned "SF-5" Single-family Residential is located directly across 21st Street North from the site. "LC" Limited Commercial property is located to the east and northeast. Currently, the west half of the adjoining "LC" tract has been vacant since a fire destroyed Braum's several years ago.

At the District VI Advisory Board meeting held on September 12, 2005, adequate screening for the Marina Lake Apartment development south of Marina Lake was discussed. The CUP required landscaping instead of the customary Unified Zoning Code solid masonry wall to separate the adjacent commercial tracts (Parcels 4 and 5) from the residential zoning. The property owner to the south has indicated that these buffering requirements have not eliminated the view of service activities and the trash to the lake and apartments. A second concern, that the queuing for the requested drive-through restaurant on the west end of Parcel 10 would shine headlights directly across the lake into the apartments, was also discussed by the DAB.

CASE HISTORY: The subject property was created by Amendment #14 to DP-23, approved May 14, 1998. It is platted as Lot 1, Marina Lake 8th Addition, recorded August 27, 1999. An administrative adjustment (CUP2004-00004) shifted the eastern 65 feet of the property to the adjoining Parcel 5 on the east and increased building coverage by 3.1 percent (within the permissible 10 percent).

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family Residential (Benjamin Hills Neighborhood)
SOUTH: "SF-5", "B"	Marina Lake, apartments
EAST: "LC"	Various commercial uses
WEST: "B"	Apartments

PUBLIC SERVICES: The site has access to 21st Street North, a four-lane arterial street. Traffic volumes on 21st Street North are approximately 16,000 vehicles per day at 21st Street North and Amidon. The 2030 Transportation Plan estimates that traffic volumes on 21st Street North will increase to approximately 21,000 vehicles per day by 2030. Marina Lake 8th Addition limits the site to one opening and it is shown on the site plan 306 feet from the opening to the east. A center left-turn lane is provided for the opening to the east but it ends just at the point of the proposed opening. Amendment #14 required a guarantee for construction of a center left-turn lane if traffic volumes exceeded 1,000 vehicles per day. A 10,000 square feet building occupied by a 2,000 square foot restaurant with drive-through, a 2,000 square foot pharmacy with a drive-through and 6,000 square feet of general retail would be estimated to generate 1,420 vehicles per day.

Other normal municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as "local commercial". The requested amendment would be in conformance to the use recommendations of the *Comprehensive Plan*. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #3** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed CUP is in general conformance with the *Comprehensive Plan Commercial Objective III.B*, but the CUP provisions need modifications to the land use locational guidelines with respect to screening, light, and noise for minimizing detrimental impacts and planned development.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the amendment be **APPROVED** subject to the following conditions:

1. Maintain requirement and guarantee for installation of center left-turn lane on 21st Street North per Amendment #14, that states:
 - a. "The applicant shall guarantee the construction of a left turn lane along 21st St. North from the west property line of this application area to the east end of the median shown on the applicant's site plan, the construction of the lane triggered by development which generates more than 1,000 average daily trips in and out of the proposed new driveway.
2. Parcel #10 shall be amended as follows (portions with changes in bold):
 - A. Net Area: 75,808 square feet or 1.74 acres
 - B. Maximum Building Coverage: **13.2 %** or **10,000** square feet
 - C. Gross Floor Area: **10,000** square feet
 - D. Floor Area Percentage: **13.2 %**

E. Maximum Building Height: 35 feet

F. Proposed Uses:

Financial services, office, **retail, general**, and restaurant (including drive-in or drive-through restaurant). Only one restaurant with drive-in or drive-through facilities is permitted on the eastern 135 feet of the parcel; **one restaurant with drive-through facilities only (no drive-in facilities) shall be permitted on the western 195 feet of the property only in compliance with the following provisions:**

- (1) Cross-lot access shall be required between Parcel 5 and Parcel 10. Pedestrian connection shall be required from the building on Parcel 5 to the arterial sidewalk on 21st Street North.
 - (2) A site plan for all of Parcel 10 shall be reviewed and approved by the Traffic Engineer for provision of adequate circulation, queuing and pedestrian connection prior to issuance of any building permit on the parcel.
 - (3) Lighting, including poles, lights and fixtures, and including wall-mounted lighting shall be limited to 20 feet in height within 100 feet of the west parcel line, and shall be shielded to prevent light trespass on adjoining properties to the west and north, in addition to compliance with Article IV, Sec. IV-B of the Unified Zoning Code.
 - (4) A screening wall between six and eight feet in height constructed of brick, stone, masonry, architectural tile or other similar materials (not including wood or woven wire) in compliance with Article III, Sec. III-C.2.b(2)(d) shall be installed along the northern 150 feet of the west property line of Parcel 10. *RECOMMENDATION REQUESTED BY DISTRICT VI ADVISORY BOARD: A screening wall between six and eight feet in height constructed of brick, stone, masonry, architectural tile or other similar materials (not including wood or woven wire) in compliance with Article III, Sec. III-C.2.b(2)(d) shall be on the west property line and along the south line of the developed area.*
 - (5) Landscaping shall be per the City of Wichita Landscape Ordinance for the landscaped street yard and parking lot landscaping along 21st Street North and the buffering on the common property line to Parcel 7 to the west. Landscaping for the south property line shall be the same requirement as for Parcels 1-7, General Provision #2. The landscape plan prepared by a Kansas Landscape Architect shall be submitted and approved prior to issuance of any building permit.
 - a. Screening of mechanical equipment and outdoor work and storage areas shall be provided per Article IV, Sec. IV-B.3.b of the UZC. For purposes of this requirement, Parcels 7 and 8 and Parcel 11 shall be considered one parcel.
 - b. The speaker order board shall not project sound so as to be audible from the apartment buildings to the west or any other residential use in the vicinity and be in compliance with Art. IV, Sec. IV-C.6.
 - (6) Maximum number of buildings: 3
 - (7) Signs shall be limited to the signs permitted in the "NR" Neighborhood Retail District.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 5. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The parcel was created in 1998 from a filled-in portion of a sand pit and was previously zoned "SF-6" Single-family Residential when the residential uses to the north, west and south were developed. Pelican Point, an apartment complex zoned B" Multi-family Residential adjoins the site on the west. Pelican Point is Parcel 7 of DP-23. Marina Lake borders the site on the south. Marina Lake is a "Reserve", zoned "SF-5" and is Parcel 11 of DP-23. More apartments (zoned "B") are located on Parcel 8 south of Marina Lake. Benjamin Hills, a single-family residential neighborhood zoned "SF-5" Single-family Residential is located directly across 21st Street North from the site. "LC" Limited Commercial property is located to the east and northeast. Currently, the west half of the adjoining "LC" tract has been vacant since a fire destroyed Braum's several years ago.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed in conformance to the existing CUP restrictions by reducing the size of the proposed building and locating the restaurant with the drive-through window on the east side and the pharmacy drive-through on the west side.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The restriction on drive-through windows was added as a condition of approval of Amendment #14 by MAPC when development of the site was considered previously. The restriction was to keep noise, lights and queuing traffic away from the apartment buildings located about 105 feet (northernmost building) and 125 feet (other buildings) west of the property line. If this restriction is lifted, new protections on screening, noise and lighting must replace the distance requirement to avoid detrimentally affecting the residents to the west, and increasing the impact to the residents to the north. *The additional requirement of a masonry-screening wall on the south edge of development was recommended to avoid detrimental impacts on the residential development to the south.*
4. Length of time the subject property has remained vacant as currently zoned: 1999.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies as "local commercial". The requested amendment would be in conformance to the use recommendations of the *Comprehensive Plan*. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed CUP is in general conformance with the Comprehensive Plan **Commercial Objective III.B**, but the CUP provisions need modifications to the land use locational guidelines with respect to screening, light, and noise for minimizing detrimental impacts and planned development.
6. Impact of the proposed development on community facilities: The impacts of additional traffic flow could be minimized by addition of the center left-turn lane and cross-lot circulation.

GOLTRY This case is before you because the applicant wants to increase the gross floor area from 8,000 to 10,000 square feet, which is more than can be approved by an administrative adjustment. And the applicant wants to put a drive-through window for a restaurant on the west side of the site. When the site was approved for commercial development as part of Amendment #14, the site was restricted to only one drive-through window for a restaurant, and it had to be located on the eastern half of the site in order to be further away from the Pelican Point Apartments to the west. The issue is, when you look at the view of the site from the south, what will be seen by the Marina Point Apartments that are located across the lake to the south? At the DAB meeting, the representative of the Marina Lakes apartments was concerned that the recommendations did not contain adequate screening requirements for its residents. I have added, since the DAB meeting, the DAB recommendation regarding additional screening to the staff report.

JOHNSON Go back to the picture where you showed the back of Auto Zone. Where were you standing when you took that picture?

GOLTRY I was standing at Marina Point Apartments.

JOHNSON Inside an apartment or in the parking lot?

GOLTRY I was standing in the backyard of the apartment, shooting across the lake.

WARNER Is the staff recommending that the drive-in be on the east of the parcel and not on the west?

GOLTRY No, we were allowing it to be moved to the west edge but subject to the staff recommendations that include additional buffering and screening requirements, which the agent agreed to at the DAB.

ALDRICH You are talking about having landscaping on the south side?

GOLTRY Right. There was already landscaping requirement in place on the CUP but it was vague.

DOWNING There is a drive up at both ends of the building?

GOLTRY That is correct. The drive-through on the east end is for a pharmacy. But, a pharmacy has not been given as much intensity of scrutiny when we review them because customers are not as loud, and there is not as much boom-box music associated with them, whereas drive-through restaurants have received increased scrutiny due to the noise, trash, and such. And, that is why.

HILLMAN Can staff share with me the drainage plan?

GOLTRY I can't speak directly about the drainage plan because I am not the person who would be doing that, but I can say that at as a condition of the previous CUP amendment they did require a the replat of this lot, and that getting a good drainage plan in place was one of the prime recommendations, as far as conditions of Amendment #14 when they created this parcel. The city will be reviewing the actual site development plan for this site to ensure it is in conformance with the drainage plan that was approved during the platting process.

ED ROBERTS, Real Estate Resources, 11514 W. Chartwell, Wichita, KS 67205 I am representing the owner, Clear Lakes. We are in agreement with staff recommendations with the exception of the masonry wall on the south side of the property. We understand and agree that we need to put a masonry fence along the west side for buffer and landscaping. But to put one on the backside, I don't think it is going to do us any good to buffer anything. We have 500 feet before you get to an apartment across that lake. Also when Braums was built, Auto Zone was built, all these others down here, there were no screening walls for their requirement and they are 500 feet across that lake to apartments. We are only using 13% of our lot so we are not putting a very big structure on this piece of ground. We are asking for a drive-up on both the east and the west side. We have a signed lease right now with Med-Shop and they are going to be located on the east side of the building, but they have agreed to move to the west side if they need to. We are also working with a restaurant that has shown an interest but we do not have a lease with them at this time.

BISHOP I am looking at the site plan, and my question is, if there is not a masonry wall there, are there plans to put any windows along the back and utilize the view?

ROBERTS In our strip center that we have designed, there are not any windows in the back. It is a typical strip center in the front and we will have a back door and the restrooms will be in the back. The lighting that we will have in the back is just going to be the lighting on the side of the building that shines into the driveway that goes around the building.

BISHOP So where you have a pretty view, you are going to put your utilities and trash dumpster and things like that?

ROBERTS We will have a screened-in location for the dumpster. Are we going to utilize that view? No.

MICHELLE JONES, 1985 Amidon #111, Wichita, KS 67203 I am the manager of Marina Lakes Apartments. We strongly request the solid masonry wall to protect the lake area, the beauty of the lake area that we all enjoy, to keep trash and other debris from coming down through the trees and into the lake.

MARNELL Do you think you could even see the solid masonry wall over those trees?

JOHNSON Do you know about how tall those trees are? Those are two story apartments so an 8-foot masonry wall is not going to help the upper floors. So half your tenants will be helped and the other half won't.

JONES I'm not saying that we don't want to see the area over there. We are concerned about the trash coming into the lake from the drive-thru, into the lake that cannot be cleaned out.

TAPE CHANGE

ROBERTS Liability wise, the apartment people were using the lake and our insurance man informed us that we should not allow the apartment people to use our lake because of our liability. We were not opposed to them fishing or using it, but liability wise it was a problem for the company. So we had to go around and explain to all of the apartments, and explained to them that problem. The last thing we want is trash in our lake. My applicant also has 4.5 acres adjoining to this lake just east of this.

MOTION: To approve subject to staff recommendation with the exception of the masonry wall on the south side.

MARNELL moved, **MITCHELL** seconded the motion.

MITCHELL I don't think a solid screening wall is appropriate as a trash barrier.

CARRIES 11-0.

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14. **Case No.: DR2005-26** – Request The City of Cheney seeks annexation of various tracts of land located adjacent to the City of Cheney

Background: On August 11, 2005, the City of Cheney passed Resolution No. 170 authorizing a public hearing on October 13, 2005 for the purposes of considering the unilateral annexation of 12 tracts of lands located adjacent to the City of Cheney and south of Highway U.S. 54.

The proposed annexation areas fall within the City of Cheney 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in May 2005.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. Although a service plan has been prepared, the City of Cheney has not submitted to the MAPD, the plan describing the extension of services to the annexation areas.

Analysis: Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been concluded that the proposed annexation areas adjacent to the City of Cheney city limits are compliant with the Wichita-Sedgwick County Comprehensive Plan.

Recommended Action: That the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 170 of the City of Cheney to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

MITCHELL There is not a servicing plan in here and I am going to vote for denial.

WARNER Does it not say that you can go to Cheney and see one?

MITCHELL Yes, but I am not.

MOTION: Find the Unilateral annexation proposed by Resolution No. 170 of the City of Cheney to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

DOWNING moved, **BISHOP** seconded the motion, carried 10-1. (**MITCHELL** opposed)

❖ **PLANNING COMMISSION ITEMS**

15. 2005 Development Trends Report, presentation by Stephen Banks.

STEPHEN BANKS Development Trends update.

HILLMAN Do you monitor any of the Inter City conversions and the population trends in the redevelopment of warehouses into condo's and things like that?

BANKS Yes, that shows up in the remodel and addition figures and we do look for the number of residential units in those projects and we do try to track that.

HILLMAN What do your numbers show for say the last several years?

BANKS I couldn't really tell you in terms of downtown specifically, we show a total of 64 net units for the Central SDA there were a 118 new units in 2004 but 54 demolitions, see that is one thing where the Central numbers really may not show when you get down to net units the amount of activity that is occurring in some of these projects because Central continues to see a lot of demolitions.

HILLMAN Is there anyone else monitoring or trying to attach numbers on an annual basis to the number of downtown apartments as they increase?

BANKS Weigand probably does some of that, there is also a group that tracks the very large complexes but they may not be tracking these, they are the Savage Group.

HILLMAN What about the Downtown Development Group?

BANKS I don't know if they are or not.

BISHOP There was a report in the Eagle that there was someone from WSU that indicated that property values in the southeast part of the City had increased is there anyway that you capture that information?

BANKS There has been new residential down there but nothing that I would think would push property values like they have in other sectors of the City.

BISHOP What are the sources that go into the Development Trends report? Are they governmental.

BANKS Mostly, the OCI and the County Code Enforcement provides information from building permits and so forth.

Other matters.

WARNER If anyone prefers serving on a committee one of the two committees let me know because we will be needing that information before the next MAPC if we can, plus if you are interested in being a Chairperson let me know.

The Metropolitan Area Planning Department informally adjourned at 3:30 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2005.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)